

OPEN MEETING ITEM



0000014471

COMMISSIONERS
MARC SPITZER - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES



ORIGINAL

ARIZONA CORPORATION COMMISSION

22

Arizona Corporation Commission

DOCKETED

DATE: November 30, 2004

NOV 30 2004

DOCKET NO: T-04234A-04-0064

TO ALL PARTIES:

DOCKETED BY	
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Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Order on:

TELEDATA SOLUTIONS, INC.
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

DECEMBER 9, 2004

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

December 14 and 15, 2004

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

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This document is available in alternative formats by contacting Linda Hogan, ADA Coordinator, voice phone number 602-542-3931, E-mail LHogan@cc.state.az.us

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2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 COMMISSIONERS

4 MARC SPITZER, Chairman
5 WILLIAM A. MUNDELL
6 JEFF HATCH-MILLER
7 MIKE GLEASON
8 KRISTIN K. MAYES

9 IN THE MATTER OF THE APPLICATION OF
10 TELEDATA SOLUTIONS, INC. FOR A
11 CERTIFICATE OF CONVENIENCE AND
12 NECESSITY TO PROVIDE COMPETITIVE
13 RESOLD INTEREXCHANGE
14 TELECOMMUNICATIONS SERVICES, EXCEPT
15 LOCAL EXCHANGE SERVICES.

DOCKET NO. T-04234A-04-0064

DECISION NO. _____

16 ORDER

17 Open Meeting
18 December 14 and 15, 2004
19 Phoenix, Arizona

20 **BY THE COMMISSION:**

21 Having considered the entire record herein and being fully advised in the premises, the
22 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

23 FINDINGS OF FACT

24 1. On January 30, 2004, Teledata Solutions, Inc. ("Applicant" or "TSI") filed with the
25 Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide
26 competitive resold interexchange telecommunications services, except local exchange services,
27 within the State of Arizona.

28 2. Applicant is a switchless reseller that purchases telecommunications services from a
variety of carriers for resale to its customers.

3. In Decision No. 58926 (December 22, 1994), the Commission found that resold
telecommunications providers ("resellers") are public service corporations subject to the jurisdiction
of the Commission.

4. TSI has authority to transact business in the State of Arizona.

5. On June 10, 2004, Applicant filed an Affidavit of Publication indicating compliance

1 with the Commission's notice requirements.

2 6. On November 12, 2004, the Commission's Utilities Division Staff ("Staff") filed a
3 Staff Report which includes Staff's fair value rate base determination in this matter and recommends
4 approval of the application subject to certain conditions.

5 7. In the Staff Report, Staff stated that TSI provided unaudited financial statements for
6 the six months ending June 30, 2004, which list assets in excess of \$2.2 million, equity in excess of
7 \$500,000 and net income of \$239,068.

8 8. In its Staff Report, Staff stated that based on information obtained from the Applicant,
9 it has determined that TSI's fair value rate base ("FVRB") is zero and is not useful in a fair value
10 analysis, and is not useful in setting rates. Staff further stated that in general, rates for competitive
11 services are not set according to rate of return regulation, but are heavily influenced by the market.
12 Staff recommended that the Commission not set rates for TSI based on the fair value of its rate base.

13 9. Staff believes that TSI has no market power and that the reasonableness of its rates
14 will be evaluated in a market with numerous competitors. In light of the competitive market in which
15 the Applicant will be providing its services, Staff believes that the rates in Applicant's proposed
16 tariffs for its competitive services will be just and reasonable, and recommends that the Commission
17 approve them.

18 10. Staff recommended approval of TSI's application subject to the following:

19 (a) The Applicant should be ordered to comply with all Commission rules, orders,
20 and other requirements relevant to the provision of intrastate telecommunications
21 service;

22 (b) The Applicant should be ordered to maintain its accounts and records as
23 required by the Commission;

24 (c) The Applicant should be ordered to file with the Commission all financial and
25 other reports that the Commission may require, and in a form and at such times as the
26 Commission may designate;

27 (d) The Applicant should be ordered to maintain on file with the Commission all
28 current tariffs and rates, and any service standards that the Commission may require;

(e) The Applicant should be ordered to comply with the Commission's rules and
modify its tariffs to conform to these rules if it is determined that there is a conflict

between the Applicant's tariffs and the Commission's rules;

(f) The Applicant should be ordered to cooperate with Commission investigations including, but not limited to customer complaints;

(g) The Applicant should be ordered to participate in and contribute to the Arizona Universal Service Fund, as required by the Commission;

(h) The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's name, address or telephone number;

(i) If at some future date, the Applicant wants to collect from its resold interexchange customers an advance, deposit and/or prepayment, Staff recommends that the Applicant be required to file an application with the Commission for Commission approval. Such application must reference the Decision in this docket and must explain the Applicant's plans for procuring a performance bond;

(j) The Applicant's interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;

(k) The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;

(l) In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate; and

(m) In the event the Applicant requests to discontinue and/or abandon its service area it must provide notice to both the Commission and its customers. Such notice(s) shall be in accordance with A.A.C. R14-2-1107.¹

11. Staff further recommended that TSI's Certificate should be conditioned upon the Applicant filing conforming tariffs in accordance with this Decision within 365 days from the date of an Order in this matter, or 30 days prior to providing service, whichever comes first.

12. Staff recommended that if the Applicant fails to meet the timeframes outlined in Findings of Fact No. 11, that TSI's Certificate should become null and void without further Order of the Commission, and that no time extensions for compliance should be granted.

13. TSI will not collect advances, prepayments or deposits from its customers.

¹ Pursuant to A.A.C. R14-2-1107, the Applicant is required to comply and obtain Commission authorization of compliance with all of the requirements, including but not limited to the notice requirements, prior to discontinuance of service and/or abandonment of its service area.

1 14. The rates proposed by this filing are for competitive services.

2 15. Staff's recommendations as set forth herein are reasonable.

3 16. TSI's fair value rate base is zero.

4 **CONCLUSIONS OF LAW**

5 1. Applicant is a public service corporation within the meaning of Article XV of the
6 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

7 2. The Commission has jurisdiction over Applicant and the subject matter of the
8 application.

9 3. Notice of the application was given in accordance with the law.

10 4. Applicant's provision of resold interexchange telecommunications services is in the
11 public interest.

12 5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for
13 providing competitive resold interexchange telecommunications services in Arizona.

14 6. Staff's recommendations in Findings of Fact No. 8, 9, 10, 11, and 12 should be
15 adopted.

16 7. TSI's fair value rate base is not useful in determining just and reasonable rates for the
17 competitive services it proposes to provide to Arizona customers.

18 8. TSI's rates, as they appear in its proposed tariffs, are just and reasonable and should be
19 approved.

20 **ORDER**

21 IT IS THEREFORE ORDERED that the application of Teledata Solutions, Inc. for a
22 Certificate of Convenience and Necessity for authority to provide competitive resold interexchange
23 telecommunications services, except local exchange services, is hereby granted, conditioned upon its
24 compliance with the conditions recommended by Staff as set forth in Findings of Fact No. 11 above.

25 IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos.
26 8, 9, 10, 11, and 12 above are hereby adopted.

27 IT IS FURTHER ORDERED that Teledata Solutions, Inc. shall comply with the adopted
28 Staff recommendations as set forth in Findings of Fact Nos. 10 and 11 above.

1 IT IS FURTHER ORDERED that if Teledata Solutions, Inc. fails to meet the timeframes
2 outlined in Findings of Fact. No. 11 above that the Certificate conditionally granted herein shall
3 become null and void without further Order of the Commission.

4 IT IS FURTHER ORDERED that Teledata Solutions, Inc. shall not require its Arizona
5 customers to pay advances, prepayments or deposits for any of its products or services.

6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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9

10 CHAIRMAN

COMMISSIONER

COMMISSIONER

11
12 COMMISSIONER

COMMISSIONER

13 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
14 Secretary of the Arizona Corporation Commission, have
15 hereunto set my hand and caused the official seal of the
16 Commission to be affixed at the Capitol, in the City of Phoenix,
17 this ____ day of _____, 2004.

18 BRIAN C. McNEIL
EXECUTIVE SECRETARY

19 DISSENT _____
20

21 DISSENT _____
22

23 MES:mlj
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25
26
27
28

1 SERVICE LIST FOR:

TELEDATA SOLUTIONS, INC.

2 DOCKET NO.:

T-04234A-04-0064

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